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# Conference Opening

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## Conference Opening

*Henry T. King, Jr.\**

**I** love the plumbing analogies and the structural analogies, and I am confident, Sidney, that I am going to be here another ten years. The Clinic told me that maybe my arteries would outlive me.

A word about the conference and the subject matter.

Ever since the Treaty of Westphalia in 1648, the concept of the nation state vested with sovereign authority has been part of the international context in which we live. First there were only a few nation states, but gradually, with the passage of time, the ranks have increased to the point where in recent time there has been an explosion in their number. But parallel with this growth in numbers of nation states has been an explosion in cross-border world trade and a significant integration of the world's economy. This has resulted in nations being dependent upon one another for the supply and purchase of goods.

Most nations today are in a survival mode where they must trade to survive. For trade to be successful and fulfilling to all parties involved, there must be rules to guide it, and to resolve disputes. Of necessity, these involve limitations on the sovereignty of the nations involved.

Also, paralleling the proliferation in the number of nation states has been a veritable explosion in the weapons of destruction whose development places great destructive powers in sovereign states. This was forecast with considerable accuracy by Albert Speer — one of the Nuremberg defendants — in his closing statement at the Nuremberg trial where he expressed the hope that progress in man's ability to relate to his fellow man peaceably, would be such as to control the potentially destructive impact of the new technologies of destruction.

What has been apparent since Speer's statement of August 30, 1946, is that the weapons of destruction of today are so powerful as to place great destructive power in large and small sovereign states, and that controls over their use and development are mandatory in the interest of the survival of all of us. It also means that methods must be found for peaceably resolving disputes between nations so that recourse to force is unnecessary. Obviously this involves limitations on the sovereignty of nation states.

Telecommunications technology has brought the world together

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\* U.S. Director of the Canada-United States Law Institute and Professor of Law at Case Western Reserve University.

through visual and auditory means, so that we know what is happening in the world around us. Here in the United States we have a tradition of concern for human rights. What happens to our fellow humans in other nation states is of concern to us, and if violations of human rights do occur in other countries, we are concerned and we want to do something about them. But sovereignty concerns on the part of other states involved stand in our way. These states such as China maintain that what happens within their borders is their business, and is not our concern. They do not recognize the universality of human rights, and they use sovereignty to justify their position against foreign intervention in support of the rights of their citizens.

We shall be looking at the impact of sovereignty in the human rights area, and how basic human rights protections can be undertaken to provide safeguards consistent with concepts of sovereignty inherent in the existence of the independent state.

At this conference we will be dealing with possible sovereign conflicts in the trade area and how they can be resolved, both structurally and on an ad hoc basis. Here I speak of jurisdiction over trade matters, as well as other subject areas such as antitrust, export controls, industrial property, environmental matters and tax matters. We will also look at the role of international institutions in the trade area, and what elements of their sovereignty the nations involved have given up to make these institutions work effectively.

For a more secure and peaceful world to become a reality, there needs to be a structure for peace in the world. There must be a means of settling disputes between nations and punishing those who plan and engage in aggressive war. To achieve this objective in workable fashion, concessions in their sovereignty will have to be made by nation states. We shall be examining here the trial and punishment of individuals who transgress international norms relating to aggressive war, and how this relates to the building of a permanent structure for peace, with its significant implications for national sovereignty.

In our current more fungible world, there needs to be a means for preserving national cultural identities, so that we are not a world of look-a-likes. We shall be examining the subject of national identities in a free market with particular reference to the Canada/U.S. Context at our luncheon session on Saturday.

Both Canada and the United States operate under federal systems, in which there are divisions of sovereignty between national governments on the one hand, and state and provincial governments on the other. While both countries have federal structures, there are indeed significant differences between our two countries in the allocation of powers, between the national government and state and the provincial governments. At this conference we shall be examining these differences, and their impact.

In a highly competitive world, there may be practical limitations on initiatives that can be undertaken by nation states in the social policy area. We shall be examining this intriguing and challenging question at the Saturday night session of the conference.

It is critical in today's world that we understand sovereignty and its implications. This is because the sweep of sovereignty is so wide and varied. If, for example, the U.S. Senate wishes to reject an agreement with Canada covering the settlement of fisheries disputes, it may well do so, as it has in the past, on sovereignty grounds. When the U.S.S.R. turned down the U.S. precondition to most favored nation trade treatment of less restrictive emmigration from the U.S.S.R., it did so on sovereignty grounds. Furthermore, sovereignty concerns have been the primary barrier to the building of a structure for the trial and punishment of war criminals. Finally, for much of the world, sovereignty has historically been a barrier to the creation of an effective mechanism for the settlement of trade disputes, although this may have changed during recent years.

So much for the backdrop. Suffice it to say that sovereignty is indeed an intriguing, important topic, and that we have much ground to cover in the course of the proceedings.

This conference owes much to a number of people. Tim Stock, recently retired from Ford; Rob Timberg of Northern Telecom; Jon Fried of the Trade Negotiations Staff of Canada; and Dirk Barrett, of Pfizer, Inc. were most helpful in the development of the Program. Adria Sankovic, the Institute's Coordinator, has performed notable service in the handling of the many faceted logistics of this conference. This was of special importance in view of my recent absence. Sarah Moore, a recent graduate of the Case Western Reserve Law School, was also very helpful in this regard. Saleh Awadallah, the current Editor of the Canada/U.S. Law Journal, ably assisted by Afsaneh Azar, the incoming Editor, has been most effective in developing the conference materials.

On a personal note, I am most grateful to my good friend and colleague, Professor Sidney Picker, founder of the Institute, for agreeing to chair the conference when my recent surgery prevented me from doing so.

So without further ado, I will turn the conference over to your Chair, Professor Sidney Picker.

